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**IOWA UTILITIES BOARD**  
**Energy Section**

Docket No.: RPU-2012-0002  
Utility: Interstate Power and Light  
Company  
File Date/Due Date: 5/24/13-N/A  
Memo Date: July 17, 2013

**TO:** The Board

**FROM:** Bob LaRocca, Jim Kellenberg, Cecil Wright

**SUBJECT:** Recommendation on Request to Finalize Amount of Tax Benefits  
and End Reporting Requirements

**I. Background:**

On November 26, 2012, the Utilities Board (Board) issued an order approving a Settlement Agreement between Interstate Power and Light Company (IPL) and the Consumer Advocate Division of the Department of Justice (Consumer Advocate) and approved a general rate increase for **natural gas** service provided by IPL. As part of the Settlement Agreement, the Board also approved a Tax Benefit Rider (TBR) whereby IPL would flow through to customers over a three-year period the expected tax benefits associated with Internal Revenue Service (IRS) rulings on (1) proceeds from the 2008 flood; (2) mixed service costs; and (3) repair expenditures. As approved in the Settlement, the TBR will flow through \$12 million in tax benefits each year over the three-year period with a reconciliation at the end of the three years to address remaining recoveries. The Board also required IPL to file reports every six months regarding the status and amounts of the tax benefits.

On May 24, 2013, IPL filed a status report related to the TBR. In the status report, IPL states that the Board on February 19, 2013, issued an order in Docket No. ARU-2010-0001 addressing IPL's final "Report on Regulatory Liabilities Related to Tax Benefit Rider" filed with the Board on December 14, 2012, related to IPL's **electric** service TBR. IPL states that the **electric** TBR report requested the Board finalize the amounts to be used in the **electric** TBR because the IRS audits had been completed and all tax adjustments with respect to the three categories of benefits had been made. IPL states that the Board in the February 19, 2013, order accepted the **electric** report and found that no other expenses or benefits from the three tax categories need to be included in the regulatory accounts used for the **electric** TBR.

Consistent with the Board's February 19, 2013, order in Docket No. ARU-2010-0001, IPL is requesting the Board finalize the recovery amounts to be reflected in the regulatory liability account used for the **gas** TBR. The total

amount to be finalized is \$47,785,395. IPL also requests the Board find that IPL has satisfied the reporting requirements in Docket No. RPU-2012-0002. IPL requests the Board find that no further reporting obligations related to the underlying TBR benefits are required for IPL's Iowa retail **gas** jurisdiction. IPL states that the report filed May 24, 2013, fulfills the requirements in the November 26, 2012, order and follows the same ratemaking principles accepted by the Board in Docket No. RPU-2010-0001 for the **electric** TBR.

IPL filed documentation and an explanation of the amount of the benefits that have resulted from the three projects. IPL states that the 2008 flood insurance proceeds project is considered a non-recurring event. The mixed service costs and repair expenditures tax projects relate to accounting method changes which have been filed as part of IPL's federal income tax returns. With Board approval, IPL sought tax accounting changes that would benefit customers and the Board delayed ratemaking treatment until the IRS audit results.

IPL pointed out that the Board in the November 26, 2012, order approved the use of the TBR for return of the estimated tax benefits of the three projects prior to completion of an IRS audit. Based upon the information IPL had at the time of the Settlement Agreement, IPL was to return \$12 million annually over a three-year period to retail **gas** customers. IPL proposed to update the benefits and credits to customers after the audits were complete. IPL states that the audits are now complete and the total flow through tax benefits are \$47,785,395, as compared to the approximate \$36 million originally estimated by IPL. IPL is returning \$12 million of the benefits through the TBR during 2013.

IPL states that all tax deductions taken for the three projects have been finalized with the IRS. Regulatory review and changes approved by the audit reports have been accepted with certainty on the adjustments to IPL's tax returns. IPL provided accounting schedules that include the detail of the jurisdictional differences along with the proposed regulatory accounting. IPL states that all deferred taxes in the rate base were appropriately reflected in Docket No. RPU-2012-0002 and will not need any further adjustment to rate base to finalize the accounting.

IPL is requesting a return to traditional Iowa ratemaking practices for any subsequent income tax expenses and benefits from the three separate tax projects consistent with Docket No. ARU-2010-0001. The timing and amount of remaining refunds for the tax benefits accumulated in the regulatory liability account are expected to be determined by the Board in future tariff filings. IPL provided schedules to assist in the explanation of the final update on the three tax projects for regulatory liability/TBR treatment.

On June 7, 2013, Consumer Advocate filed a response stating that it had no objection to the report filed by IPL.

## **II. Legal Standards:**

Iowa Code § 476.6

1. Filing with board. A public utility subject to rate regulation shall not make effective a new or changed rate, charge, schedule, or regulation until the rate, charge, schedule, or regulation has been approved by the board ...

...

6. Finding by board. If, after hearing and decision on all issues presented for determination in the rate proceeding, the board finds the proposed rates, charges, schedules, or regulations of the utility to be unlawful, the board shall by order authorize and direct the utility to file new or changed rates, charges, schedules, or regulations which, when approved by the board and placed into effect, will satisfy the requirements of this chapter. The rates, charges, schedules, or regulations so approved are lawful and effective upon their approval.

### III. Analysis:

In the November 26, 2012, order, the Board approved the implementation of a TBR to return approximately \$36 million in tax benefits to IPL's **natural gas** customers. Since the tax benefits were not final as of the date of the order, the Board approved the return of \$12 million in credits to customers each year over a three-year period. A final reconciliation would then be performed at the end of the three-year period to return any remaining credits to customers or recover any over-payment of credits to customers.

IPL states that the IRS audits have been concluded and the results show that IPL **natural gas** customers are to receive \$47,785,395 in total benefits. IPL requests that the Board approve the final amount of total tax benefits and find that IPL has satisfied all Docket No. RPU-2012-0002 filing requirements related to the TBR and no further reporting obligations are required for IPL's Iowa retail **gas** jurisdiction.

IPL made a similar filing in Docket No. ARU-2010-0001 for the benefits due to **electric** customers. On February 19, 2013, the Board issued an order accepting the report regarding the **electric** TBR including all requests for accounting or regulatory treatment contained in the report. The Board found that IPL had satisfied the filing requirements from Docket No. RPU-2010-0001, the most recent IPL general **electric** rate case, and no further reporting obligations related to the underlying tax projects were required for IPL's Iowa **electric** jurisdiction. The Board stated that IPL could return to traditional Iowa ratemaking practices for any subsequent income tax expenses and benefits from the three tax projects.

IPL is returning approximately \$12 million in benefits in compliance with the **gas** Settlement during 2013. It is staff's understanding that IPL has not decided whether it will attempt to increase the benefits to be recovered in 2014 and 2015 or return the additional benefits over the original \$36 million through the reconciliation.

Staff had a telephone conference with IPL personnel to answer a question about the effect of the increased benefits on Accumulated Deferred Income Taxes and IPL's gas rate base. In that conversation, IPL indicated that it had not discussed any adjustments to the TBR to reflect the increased benefits.

Based upon the fact that the IRS audits have concluded and the total benefits have been determined, staff believes the Board should grant IPL's request to finalize the total benefit number, end the reporting requirements, and approve the requests for accounting and regulatory treatment. The total amount of benefits has been determined to be \$47,485,395. Staff is satisfied that the increase in benefits does not affect IPL's gas rate base. With the finalization of the total benefits above the \$36 million originally calculated by IPL, there appears to be no real issue with over-collection so staff believes there is no need for the reporting requirements to continue. Staff also believes the proposed accounting treatment of the benefits is reasonable and that any additional benefits that may be recovered should be handled through traditional ratemaking procedures.

Staff recommends, if IPL decides that it wants to increase the annual TBR for 2014 and 2015, that IPL be required to file for approval of the increase since the \$12 million was approved based upon a settlement with Consumer Advocate. Staff believes any change in the settlement will need the agreement of Consumer Advocate and the approval of the Board before the change is implemented.

#### **IV. Recommendation:**

Direct General Counsel to prepare for Board review an order that finalizes the total amount of IPL recoveries to be returned to IPL's natural gas customers, ends the reporting requirements, and approves the accounting and regulatory treatment of the IRS recoveries. The order should also direct IPL to file for Board approval any changes to the settlement amounts now being recovered through the TBR.

#### **RECOMMENDATION APPROVED**

#### **IOWA UTILITIES BOARD**

/ciw

/s/ Elizabeth S. Jacobs      7-19-13  
Date

/s/ Swati A. Dandekar      7-19-13  
Date

/s/ Nick Wagner      7/19/13  
Date